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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,413	02/12/2004	Frederick James Diggle III	BE1-0054US	4316
49584	7590	06/22/2006		
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE. SUITE 500 SPOKANE, WA 99201			EXAMINER WATSON, ROBERT C	
			ART UNIT 3723	PAPER NUMBER

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/777,413	DIGGLE ET AL.	
	Examiner	Art Unit	
	Robert C. Watson	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-12 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) 21-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/4/04, 5/1/06</u> | 6) <input type="checkbox"/> Other: _____ |

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Claims 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are indeterminate of scope because these claims do not agree with the preamble of claim 1 which states that only an apparatus for use in pulling a line is claimed. Claims 9-10 appear to claim the line in combination with the apparatus for pulling. The scope of claims 9-10 cannot be determined.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7-9, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woelkers in view of Sawaf and Farmer.

Woelkers shows an apparatus for pulling a line through a raceway. Plural lines may be attached to apertures along the device.

Sawaf teaches that plural members may be attached along a chain.

To make the device 14 of Woelkers from a chain would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Sawaf. One of ordinary skill in the art would have been motivated to do this in order to provide a convenient way of making the attachment device from readily available chain material.

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Framer teaches that a threaded attachment means may be formed at the end of a chain pulling device. The threaded attachment means has grips 34 and a loop member.

To provide a threaded attachment means on the the end of the Weolders line pulling device would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Farmer. One of ordinary skill in the art would have been motivated to do this in order to enable the line pulling device to be attached to fish tapes having a threaded connector.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woelkers in view of Sawaf and Farmer supra and further in view of Zimmer.

Zimmer teaches that lines may be releasably attached to a line pulling device by tape.

To attach the lines to the line pulling device supra by means of tape would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Zimmer. One of ordinary skill in the art would have been motivated to do this in order to provide a convenient means of attaching the lines to the pulling device so that they won't fall off during the pulling operation.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7, 8, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Farmer.

Farmer shows an apparatus for pulling including a plurality of linked mounts 6, an attachment member 23,9,10,14 wherein the attachment member has a threaded connector 23 at one end and a loop 14 at the other end. The attachment member further has a hex formation 7 which may be termed "grips". A line can be found that is smaller than the links of Farmer since lines are available in a wide range of sizes. A raceway can be found that is larger than the outer dimension of the links since raceways are available in a wide range of sizes.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farmer.

Farmer includes a releasable attachment member 7 at one end of the chain. To provide additional releasable attachment members such as at the other end of the chain at the attachment member would be no more than an obvious duplication of the teachings of Farmer. One skilled in the art would have been motivated to do this in order to provide adjustability thereby.

Claims 21-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/20/05. Applicant's 6/8/04 response indicated that these claims do not read on the elected species.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rcw



ROBERT C. WATSON
PRIMARY EXAMINER